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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA, : CR 00-840 S-1
-against- : U.S. Courthouse
BENJAMIN CASTELLAZZO, : Brooklyn, New York
Defendant. : Sentencing
X February 27, 2002
10:00 a.m.

BEFORE:

HONORABLE I. LEO GLASSER
United States District Judge

APPEARANCES:

For the Government: ALAN VINEGRAD, ESQUIRE
United States Attorney
One Pierrepont Plaza
Brooklyn, New York 11201

BY: JO-ANNE WEISSBART, ESQUIRE
Assistant U.S. Attorney

For the Defendant: JAMES DI PIETRO, ESQUIRE

Court Reporter: RONALD E. TOLKIN, RPR
225 Cadman Plaza East
Brooklyn, New York 11201
(718) 260-2567

Proceedings recorded by mechanical stenography, transcript produced by Computer-Assisted Transcript.

1 COURTROOM DEPUTY: Criminal cause for sentencing,
2 U.S.A against Benjamin Castellazzo.

3 The parties please come forward. Please put your
4 appearances on the record.

5 MS. WEISSBART: Jo Anne Weissbart, for the
6 government.

7 Good morning, Your Honor.

8 THE COURT: Good morning.

9 MR. DI PIETRO: James Di Pietro for Mr. Castellazzo.

10 Good morning, Your Honor.

11 THE COURT: Good morning.

12 Are you ready to proceed, Mr. Di Pietro?

13 MR. DI PIETRO: Yes, Your Honor.

14 THE COURT: Have you reviewed the presentence report
15 with your client?

16 MR. DI PIETRO: We have.

17 THE COURT: I think there is only one exception
18 taken to it. It relates to the global plea adjustment.

19 MR. DI PIETRO: That is correct, Your Honor.

20 THE COURT: Is there anything else?

21 MR. DI PIETRO: The only other little technical
22 point that I raised in the report. It indicated my client had
23 an ownership interest in a certain establishment. That is
24 just simply not true.

25 THE COURT: That has no bearing on sentencing.

1 MR. DI PIETRO: Thank you, Your Honor.

2 THE COURT: Do you want to be heard?

3 MR. DI PIETRO: Your Honor already resolved the
4 global disposition issue?

5 THE COURT: Yes.

6 MR. DI PIETRO: I assume that you resolved it
7 favorably to the defendant?

8 THE COURT: Yes.

9 So that the record reflects that. On page 18 of the
10 report -- I am sorry. Page 17 Paragraph 37, it indicated a
11 minus two. Paragraph 41, indicates a 22. Paragraph 21, it
12 indicates a 19. Paragraph 83, that should reflect a 19
13 instead of 21 and 33 and 41.

14 All right?

15 MR. DI PIETRO: Thank you, Your Honor.

16 Your Honor, Mr. Castellazzo, of course, stands
17 before Your Honor for sentencing this morning. I want it to
18 be clear that he accepts full responsible for his conduct. I
19 am not here to excuse or minimize his conduct in any form.

20 This was a lengthy investigation. It involved large
21 scale wiretapping and bugging and surveillance. The bottom
22 line at the end of that investigation, which was approximately
23 a year and a half or two years. What the government was able
24 to come up with was that these defendants and my client were
25 involved in a gambling and a loan sharking type operation.

1 That is what it was. That is what it is. This was not a RICO
2 case. Once, again, I am not here to minimize what my client
3 pled guilty to.

4 He was permitted by the government to plead guilty
5 to one count of this indictment, namely, Count Three. Mr.
6 Castellazzo is 64 years old, Your Honor. He is married for 47
7 years. He has two children.

8 As of yesterday, I believe, that Your Honor received
9 an updated letter from Doctor Westwood as to his current
10 health condition. He does suffer from angina. He does have
11 hypertension. He has hyperprolinemia. He does suffer from
12 pulmonary thrombosis.

13 Judge, he has been on pretrial release without a
14 bracelet for a year and a half. In December of last year
15 pretrial recommended that his bail be modified. To the extent
16 that he come off of pretrial supervision, because he was
17 someone that gave no one any difficulty. Your Honor signed an
18 order to that effect.

19 What I would like Your Honor to consider this
20 morning is the defendant's age. He is looking at a guideline
21 range of 33 to 41 months. He is 64 years old. He realizes he
22 is going to jail.

23 I just most respectfully as his counsel and advocate
24 believe that the low end of that guideline will be enough of a
25 specific deterrent for this gentleman based upon his age and

1 based upon what he pleaded guilty to, to prevent him from
2 committing similar conduct in the future.

3 That is all that I have to say.

4 THE COURT: Does the government want to be heard?

5 MS. WEISSBART: No, Your Honor.

6 Thank you.

7 THE COURT: Mr. Castellazzo, what would you like to
8 say to me this morning?

9 MR. CASTELLAZZO: Nothing, Your Honor.

10 THE COURT: Well, there isn't very much that I can
11 say to you either. You have been involved in criminal conduct
12 for a long time.

13 I am going to commit Mr. Castellazzo to the custody
14 of the Attorney General for 36 months. There will be three
15 years of supervised release, a \$100 special assessment, and a
16 \$5,000 fine.

17 The financial information advises it but I will not
18 pursue that.

19 I think there are three or four open counts.

20 MS. WEISSBART: And the underlying indictment, Your
21 Honor. All of which the government moves to dismiss.

22 THE COURT: The motion to dismiss them is granted.

23 Is there anything further?

24 MR. DI PIETRO: Yes, if Your Honor, please. I know
25 there will be no objection from the government. I am

1 requesting that Mr. Castellazzo be permitted to voluntarily
2 surrender.

3 I will ask that Your Honor make a recommendation to
4 the Bureau of Prisons that he be permitted to serve his time
5 at the FCI Fairton Facility in New Jersey. He lives at
6 Manahawkin, New Jersey. It is close to his home.

7 THE COURT: Does the government want to be heard?

8 MS. WEISSBART: No, Your Honor. We don't object to
9 the recommendation.

10 THE COURT: So ordered.

11 COURTRoom DEPUTY: He should surrender on April
12 29th, that is a Monday, to the prison.

13 MR. DI PIETRO: To the designated facility?

14 COURTRoom DEPUTY: Yes.

15 MR. DI PIETRO: Thank you very much, Your Honor.

16 I will bring him down to the Marshals now.

17 COURTRoom DEPUTY: You don't have to. They will get
18 the information. You don't have to go down there.

19 THE COURT: There is --

20 MR. DI PIETRO: Excuse me, Your Honor?

21 THE COURT: I said, there is no need for me to
22 advise him of the right to appeal.

23 MR. DI PIETRO: That is correct, Your Honor.

24 THE COURT: He waived it.

25 MR. DI PIETRO: Thank you, Your Honor.

1 MS. WEISSBART: Thank you, Your Honor.
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7 STATES OF AMERICA AGAINST JAMES DI PIETRO AND (B) THESE PAGES
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RONALD E. TOLKIN

18 **OFFICIAL COURT REPORTER**

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